



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Marisco, Ltd.

File: B-235773

Date: June 26, 1989

DIGEST

Where protester's initial proposal offered a 6-week drydock period instead of the 30 days called for in the solicitation, and despite the Navy's notice during discussions that 30 days was required, the best and final offer still contained the longer period, the proposal was properly rejected.

DECISION

Marisco, Ltd., protests rejection of its low cost proposal and the award of a contract to Honolulu Shipyard, Inc., under request for proposals (RFP) No. N47456-89-R-0027, issued by the Naval Sea Systems Command for work on the USS Conserver.

The protest is dismissed.

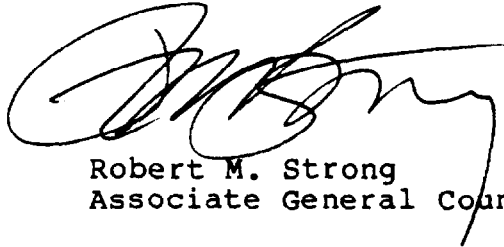
Marisco's proposal was rejected because Marisco stated in its best and final offer (BAFO) that it required a 6-week drydock period as opposed to the 30 days required by the solicitation, as amended. Marisco had initially offered a 6-week drydock period, but the Navy specifically addressed the 30-day dry docking requirement in its request for a BAFO from Marisco. Despite this notice Marisco qualified its BAFO and offered 6 weeks.

In negotiated procurements an agency does not have discretion to disregard an offeror's failure to satisfy a material RFP requirement in its proposal. Industrial Lift Truck Co. of New Jersey, Inc.; Doering Equip., Inc., 67 Comp. Gen. 525, 88-2 CPD ¶ 61. Delivery is considered to be a material term of a solicitation, and award generally cannot be made on the basis of a proposal that takes exception to a

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required delivery schedule. Industrial Lift Truck Co. of New Jersey, Inc.; Doering Equip., Inc., 67 Comp. Gen., supra. Since the RFP called for a 30-day drydock period and Marisco knew, through discussions, that its offer of a 6-week period was unacceptable to the Navy, Marisco's proposal was properly rejected as not conforming to a material term of the RFP.

The protest is dismissed.

A handwritten signature in black ink, appearing to read 'R. M. Strong', is written over the printed name and title.

Robert M. Strong
Associate General Counsel